

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

**WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY**, acting on behalf of the **WEST
VIRGINIA INFRASTRUCTURE AND JOBS
DEVELOPMENT COUNCIL**,

Plaintiff,

v.

CIVIL ACTION NO. _____

JOHN H. WELLFORD, III, aka
JOHN H. WELLFORD,

Defendant.

COMPLAINT

Now comes Plaintiff, West Virginia Water Development Authority, acting on behalf of the West Virginia Infrastructure and Jobs Development Council, and for its complaint states as follows:

PARTIES

1. Plaintiff, West Virginia Water Development Authority (“WVWDA” or “Lender”), is a governmental instrumentality and body corporate of the State of West Virginia acting by and on behalf of the West Virginia Infrastructure and Jobs Development Council (“Infrastructure Council”), with its principal place of business in Charleston, West Virginia.

2. Pursuant to W. Va. Code § 31-15A-1 et seq., WVWDA, on behalf of the Infrastructure Council, made a loan to the Regional Development Authority of Charleston-Kanawha County, West Virginia, Metropolitan Region, a West Virginia public corporation (“RDA” or “Borrower”), in the principal amount of \$3,000,000.

3. Defendant John H. Wellford, III aka John H. Wellford (“Wellford” or “Guarantor”) is a resident of Charleston, Kanawha County, West Virginia.

JURISDICTION AND VENUE

4. Jurisdiction over the subject matter of this action is proper in this Court pursuant to provisions of West Virginia Code § 51-2-2. As discussed in greater detail below, this civil action involves breaches of contract, or, in the alternative, unjust enrichment, which have proximately resulted in damages for WVWDA that meet or exceed the amount in controversy needed to satisfy the jurisdictional requirements of this Court.

5. This Court has personal jurisdiction over Wellford, an individual domiciled in West Virginia, who transacted business in West Virginia and personally guaranteed the commercial loan at issue. Pursuant to the Guaranty Agreement, Wellford consented to jurisdiction in any federal or state court located or sitting in Kanawha County, West Virginia.

6. Venue is proper in the Circuit Court of Kanawha County, West Virginia, pursuant to West Virginia Code § 56-1-1. In addition, the forum selection provisions contained in the Loan Agreement and Guaranty (defined below) provide exclusive jurisdiction and venue for any action or proceeding arising out of or relating to the loan at issue in a state or federal court located or sitting in Kanawha County, West Virginia.

GENERAL ALLEGATIONS

The Loan

7. On June 5, 1999, pursuant to the Loan Agreement dated June 5, 1999, by and between WVWDA, acting by and on behalf of the Infrastructure Council, and the RDA (“Loan Agreement”), and a Promissory Note in the original principal amount of Three Million Dollars (\$3,000,000) executed by the RDA (the “Note”), the RDA borrowed \$3,000,000 from WVWDA in order to purchase a building (“Building”) from Corotoman, Inc. (“Corotoman”), a West Virginia corporation owned by Wellford. A copy of the Loan Agreement is attached to this Complaint as Exhibit A, and a copy of the Note is attached to this Complaint as Exhibit B.

8. Pursuant to a Guaranty Agreement dated August 5, 1999 (“Guaranty”), Wellford unconditionally guaranteed to WVWDA, acting on behalf of the Infrastructure Council, the punctual payment of principal and interest owing under the Note. A copy of the Guaranty is attached to this Complaint as Exhibit C.

9. Due and owing under the Note is the amount of \$2,069,379.06, including \$1,736,360.75 of principal and \$333,018.31 of interest, plus collection expenses, as of November 1, 2018.

The Loan Default

10. The Note is in default and in arrears in the amount of \$1,894,019.18, which has not been paid in accordance with the terms of the Note.

11. The default and arrearage arose as a result of the failure of Corotoman to pay over money that it had received from Ticketmaster L.L.C. (the lessee of the Building) (“Lessee”) on behalf of the RDA in the amount of approximately \$1,560,000.00, which money belonged to the RDA and ultimately to WVWDA on behalf of the Infrastructure Council but was retained without authority or justification by Corotoman.

12. Pursuant to the terms of the Note, WVWDA, on behalf of the Infrastructure Council, has elected to declare all sums owing under the Note immediately due and payable and, accordingly, Wellford is obligated to make immediate payment of the entire amount due and owing under the Note. Copies of the letters accelerating the indebtedness are attached to this Complaint as Exhibit D.

13. Wellford has not paid the amount due and owing under the Note and, therefore, is in default of the Guaranty.

14. Wellford is obligated to pay to WVWDA the sum of \$2,069,379.06, plus additional accruing interest and collection expenses, which is immediately due and payable pursuant to the terms of the Note and the Guaranty.

COUNT I—BREACH OF COMMERCIAL GUARANTY AGREEMENT

15. WVWDA re-alleges and incorporates paragraphs 1 through 14 as though fully restated herein.

16. The commercial Guaranty executed by Wellford is a valid and enforceable contract supported by adequate consideration and was required by WVWDA and voluntarily accepted by Wellford.

17. By executing the Guaranty, Wellford unconditionally guaranteed to WVWDA, acting on behalf of the Infrastructure Council, the punctual payment of principal and interest owing under the Note.

18. WVWDA performed its obligations under the Loan Agreement by providing the RDA the principal amounts agreed upon, and all conditions precedent to enforcement of the Loan Agreement and Guaranty have been satisfied.

19. Contrary to the Loan Agreement, the RDA has failed to timely pay the balance owed with respect to the commercial loan.

20. The Note is in default and in arrears in the amount of \$1,894,019.18.

21. The default and arrearage arose as a result of the failure of Corotoman to pay over money that it had received from the Lessee of the Building on behalf of the RDA in the amount of approximately \$1,560,000.00, which money belonged to the RDA and ultimately to WVWDA on behalf of the Infrastructure Council but was retained without authority or justification by Corotoman.

22. Contrary to the terms of the Guaranty, Wellford defaulted by failing to timely make payments on the balance owed with respect to the Note and commercial loan at issue.

23. Wellford's defaults are a material breach of the Loan Agreement and the Guaranty.

24. Despite demand and an opportunity to cure, Wellford has not cured the above defaults.

25. As a direct and proximate result of Wellford's defaults and material breach of the Guaranty, WVWDA has suffered and continues to suffer actual loss and damages, plus pre-judgment interest at the contract rate, and other fees authorized by contract. Specifically, WVWDA has been compelled to hire legal counsel to institute this civil action to enforce its rights, and under the Guaranty, WVWDA is entitled to recover its reasonable attorneys' fees and costs.

COUNT II—UNJUST ENRICHMENT
(In the Alternative)

26. WVWDA re-alleges and incorporates paragraphs 1 through 25 as though fully restated herein.

27. Should it be determined that an enforceable contract with respect to the matters asserted above did not exist, Wellford, individually or through his affiliates, received and benefited from the full proceeds of the loan, and it would be unjust to permit Wellford to profit from WVWDA's expectations and performance without just compensation. Should the Court determine that Wellford has not breached the guaranty because the guaranty was not an enforceable contract, the Court should alternatively find that Wellford is liable to WVWDA under the law of unjust enrichment.

28. "[I]f benefits have been received and retained under such circumstance that it would be inequitable and unconscionable to permit the party receiving them to avoid payment therefor, the law requires the party receiving the benefits to pay their reasonable value." *Realmark Devs., Inc. v. Ranson*, 542 S.E.2d 880, 885 (W. Va. 2000). Unjust enrichment is based upon equitable principles and is sometimes referred to as "restitution, a contract implied in law, quasi-contract, or an action in *assumpsit*," but it is an action at law for which the remedy is money damages. *See Realmark Devs., Inc. v. Ranson*, 588 S.E.2d 150, 153 (W. Va. 2003).

29. Under the law of unjust enrichment, Wellford should be required to repay the money he has received or benefitted from, as loaned to RDA by WVWDA, plus interest and costs

representing the benefit of the use of such money.

REQUEST FOR RELIEF

WHEREFORE, WVWDA respectfully requests that the Court enter judgment in its favor against Wellford. as follows:

- (1) holding that Wellford is in breach of the commercial Guaranty attached hereto and is liable to repay the full amount due on the commercial loan and guaranty at issue; or, in the alternative, holding that Wellford must repay the reasonable value of the funds received from WVWDA under the law of unjust enrichment;
- (2) entering judgment against Wellford in the total amount of \$2,069,379.06, including \$1,736,360.75 in principal and \$333,018.31 in interest, plus additional accrued interest as of the date of payment and all costs of collection and reasonable attorneys' fees, and
- (3) granting all further relief as the Court deems just and appropriate.

Respectfully submitted,

**WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY ACTING ON BEHALF OF THE WEST
VIRGINIA INFRASTRUCTURE AND JOBS
DEVELOPMENT COUNCIL**

By counsel

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Exhibit A

LOAN AGREEMENT

THIS LOAN AGREEMENT, made and entered into in several counterparts this 5th day of August, 1999, by and between the **WEST VIRGINIA WATER DEVELOPMENT AUTHORITY**, a governmental instrumentality and body corporate of the State of West Virginia (the "Authority"), acting by and on behalf of the **WEST VIRGINIA INFRASTRUCTURE and JOBS DEVELOPMENT COUNCIL** (the "Council"), and the **REGIONAL DEVELOPMENT AUTHORITY OF CHARLESTON-KANAWHA COUNTY, W.Va., METROPOLITAN REGION**, a West Virginia public corporation (the "Borrower").

WHEREAS, Borrower will acquire title to a parcel of real estate situate in Charleston, West Virginia, consisting of 6.0 acres, more or less, located at the NorthGate Business Park, which property is more particularly described on Exhibit A attached hereto (the "Land"), on which has been constructed a build-to-suit 23,055 square foot structure (the "Improvements" and with the Land, collectively referred to herein as the "Facility") at a cost of \$3,810,000; and

WHEREAS, the Facility is leased to Ticketmaster L.L.C. ("Ticketmaster") pursuant to that certain Commercial Lease (the "Lease") dated January 14, 1999 between Corotoman, Inc. ("Corotoman") and Ticketmaster, which Lease will be assigned to Borrower by Corotoman contemporaneously with the sale of the Facility to Borrower pursuant to an Assignment of even date herewith between Corotoman and Borrower; and

WHEREAS, Borrower has made application to the Authority for a term loan (the "Loan") of \$3,000,000 as permanent financing for the acquisition of good and marketable title to the Facility and said application has been approved by the Council, upon certain terms and conditions as set forth in the Authority's loan commitment letter dated May 5, 1999 (the "Commitment Letter"); and

WHEREAS, as collateral for the Loan the Borrower will grant the Authority a first lien deed of trust on the Facility and a first priority assignment of all existing and future leases and rents of the Facility or any portion thereof, all shared on a pro rata basis with First Community Bank, N.A. (the "Bank"); and

WHEREAS, Borrower has represented to the Authority that all of the Loan proceeds shall immediately be applied toward the acquisition of the Facility as outlined in the Loan application submitted by Borrower to the Council and the Authority.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, the parties hereto agree to as follows:

A. Financing

1. Subject to the terms and conditions hereof, the Authority hereby agrees to loan to Borrower the sum of \$3,000,000 for a term extending from the date hereof until August 1, 2019. The Loan shall bear interest at a fixed rate of 4.75% per annum. The Loan may be prepaid, in whole or in part, at any time without penalty of any kind. Partial prepayments shall be applied to installments of principal due in inverse order of maturity. The Borrower shall make monthly payments of principal and interest directly to United National Bank, as trustee for the Authority, commencing on the first day of the third month immediately following the date hereof, and continuing thereafter on the same day of the next succeeding 237 months. Payment instructions are set forth on Schedule Z attached hereto and incorporated herein by reference.

2. For purposes of this Agreement and all documents referred to herein, the term "Closing" shall mean the date on which this Agreement and all other documents which are required to be executed and delivered by the Borrower and the Authority, as the case may be, pursuant to the terms of Section D.1 hereof are executed by such parties.

3. The Loan shall be evidenced by a single Promissory Note (the "Note") of the Borrower which shall be executed and delivered to the Authority at the Closing.

4. Borrower agrees to immediately pay the Loan in full at the time of the sale or transfer of all or a portion of the Facility.

5. The Loan shall be for permanent financing only. The Loan will be closed and disbursed only upon (i) substantial completion of the Project, as determined by the Council in its sole discretion, which determination shall not be unreasonably withheld; (ii) receipt of a Certificate executed by an authorized officer of Corotoman stating that the Commencement Date under the Lease has occurred and identifying the specific date thereof, together with copies of the FF&E Notice and Commencement Date Notice delivered to Ticketmaster; (iii) receipt of a Certificate executed by an authorized officer of Ticketmaster stating (1) that the Commencement Date under the Lease has occurred on a date specified by Ticketmaster in said Certificate; that Corotoman has satisfied the terms of the Lease with respect to the condition of the Premises and that Ticketmaster has accepted the Premises under the terms of the Lease; and (2) that Ticketmaster's obligation to begin payment of the rent under the Lease will commence two months from the specified Commencement Date; and (iv) the satisfaction of all other terms and conditions contained herein. Capitalized terms not otherwise defined in this Section A.5 shall have the meanings ascribed to such terms in the Lease.

6. The total proceeds of the Loan shall be used solely for an "Infrastructure Project" as defined by the West Virginia Infrastructure and Jobs Development Act, and the total proceeds shall be applied in those amounts and only for those purposes as set out in the Loan application submitted to the Council and Authority by Borrower for the acquisition and construction of the Facility.

B. Facility Lease

1. The Lease for the Facility has a term extending from June 4, 1999 until August 3, 2009.

C. Security

Borrower shall provide the following security for the Loan:

1. Borrower shall convey to the Authority a first lien deed of trust on the Facility (the "Deed of Trust"), shared on a pro rata basis with the Bank. Except for the Lease, Borrower shall not further encumber the Facility during the term of the Loan without the prior written consent of the Council and Authority.
2. Borrower shall assign to the Authority all of its interest as lessor in all existing and future leases relating to the Facility pursuant to an Assignment of Rents (the "Assignment"), shared on a pro rata basis with the Bank.

D. Conditions Precedent to Financing

The obligation of the Authority to make the Loan is subject to the following conditions precedent:

1. Borrower shall have delivered to the Authority (i) a copy of the Order establishing the Borrower by the Kanawha County Commission, certified by the Clerk of said County Commission; and (ii) a copy of the Borrower's Bylaws.
2. Borrower shall have delivered to the Authority resolutions approving the execution, delivery and performance of this Agreement and all transactions and documentation contemplated herein, duly adopted by the Board of Directors of Borrower, together with a certificate of the Secretary of Borrower stating that such resolutions are true and correct, have not been altered or repealed, and are in full force and effect as of the date hereof.
3. Borrower shall have executed and delivered the Note, the Deed of Trust, the Assignment and all other documents required to be executed and delivered by the Borrower pursuant to the terms hereof (collectively, the "Loan Documents"), and the Deed of Trust and Assignment shall have been filed or recorded in order to create the liens in favor of the Authority necessary to secure the Loan.
4. Borrower shall have delivered to the Authority an opinion of Borrower's counsel which addresses such matters as may be requested by the Authority with respect to the Loan, including, but not limited to, an opinion that each of the Loan Documents has been duly authorized and constitutes a valid, enforceable and legally binding obligation of Borrower, subject to applicable bankruptcy, insolvency, reorganization,

moratorium or other statutes in effect from time to time affecting the rights of creditors generally and except to the extent that the enforceability thereof may be limited by the application of general principals of equity.

5. The Authority shall have received resolutions by the members of Ticketmaster approving the execution, delivery and performance of the Lease, and all transactions and documentation contemplated therein, duly adopted by the members of Ticketmaster and certified by the Secretary of Ticketmaster stating that such resolutions are true and correct, have not been altered or repealed, and are in full force and effect.

6. The Authority shall have received a complete and fully executed copy of the Lease.

7. Borrower shall have delivered, or caused to be delivered, to the Authority certificates of insurance which evidence that the insurance policies required by this Agreement and any of the other Loan Documents have been obtained and are in full force and effect as of Closing, in each case in a form acceptable to the Authority.

8. Borrower shall have delivered to the Authority financial statements of Borrower which are in a form acceptable to the Authority.

9. Borrower shall have delivered, or caused to be delivered, to the Authority either a certificate of flood insurance or a certification by a registered engineer or licensed surveyor that the Facility is outside the 100-year flood plain.

10. Borrower shall have furnished, or caused to be furnished, to the Authority a current survey of the Facility made by a registered engineer or licensed Facility surveyor satisfactory to the Authority and the title insurance company issuing the policy contemplated in Section D.11 below, and certified to each of them as of a recent date showing the boundaries of the Facility, all set-back lines, easements, on- and off-site utilities, rights of way and encroachments affecting the Facility and other matters apparent thereon, the relation of the Facility to public thoroughfares for access purposes, and certifying that the Facility is not in an "area of special flood hazard" for purposes of the National Flood Insurance Program; together with a legal description of the Facility compatible with said survey and sufficient for purposes of the Deed of Trust.

11. Borrower shall have caused to be issued and delivered to the Authority a binding title insurance commitment acceptable to the Authority insuring the Deed of Trust on the Facility in the principal amount of the Loan, without exception for filed or unfiled mechanic's liens or claims or for matters which an accurate survey would disclose, and subject only to such exceptions as may be approved in writing by the Authority.

12. Borrower shall have delivered, or caused to be delivered, to the Authority a Phase I Environmental Site Assessment with only those exceptions as are acceptable to the Council and the Authority.

13. Borrower shall have delivered, or caused to be delivered, to the Authority a certificate of substantial completion of the Facility executed by an authorized representative of Corotoman and the engineer or architect for the Facility.

14. Borrower shall have delivered, or caused to be delivered, to the Authority copies of all invoices relating to the acquisition of the Facility.

15. Borrower shall have delivered, or caused to be delivered, to the Authority a certificate executed by the architect of the Facility stating that the Facility complies with the Americans With Disabilities Act.

16. Borrower shall have delivered, or caused to be delivered, to the Authority a copy of the plans and specifications for the Facility acceptable to the Authority in all respects.

17. Borrower shall have delivered, or caused to be delivered, to the Authority an appraisal of the Facility by an MAI appraiser acceptable to the Council which indicates an as-built value of not less than \$3,810,000.

18. Borrower shall have caused to be delivered to the Authority an irrevocable standby letter of credit complying with the requirements of Section 12 of the Commitment Letter.

19. Borrower shall have delivered to the Authority an absolute and unconditional guarantee of John Wellford (the "Guarantor"), pursuant to a guaranty agreement (the "Guaranty Agreement") in form and substance acceptable to the Council in all respects.

20. Borrower shall have delivered to the Authority evidence of injection of funds into the Facility of at least \$810,000 through a bank loan in the amount of \$410,000 and a grant by the City of Charleston in the amount of \$400,000.

21. Borrower shall have delivered, or caused to be delivered, to the Authority a Subordination, Non-disturbance and Attornment Agreement executed by Ticketmaster in form and substance acceptable to the Authority.

22. The Bank shall have delivered to the Authority a fully executed Intercreditor Agreement in a form acceptable to the Authority and the Council.

23. Borrower shall have delivered to the Authority a fully executed copy of the Purchase Agreement between Borrower and Corotoman pertaining to Borrower's acquisition of the Facility, together with a fully executed copy of the Deed, Assignment of Lease and any Bill of Sale pertaining to the Facility.

E. Representations and Warranties

Borrower hereby represents and warrants to the Authority as follows:

1. Borrower is a duly organized and validly existing public corporation established under the provisions of W. Va. Code §§7-12-1 et seq., and has all requisite corporate power to own its assets and carry on its business as currently conducted.

2. The execution, delivery and performance of this Agreement and all other documents and writings referred to herein are all within Borrower's corporate powers, have been duly authorized by Borrower and are not in contravention of applicable law, the terms of its bylaws or any other organizational documents, or of any indenture, agreement or undertaking to which Borrower is a party or by which it or any of its properties is bound.

3. All information at any time furnished to the Council and the Authority by Borrower concerning Borrower's financial condition or otherwise, for the purpose of obtaining the Loan has been prepared on a basis consistent with that of prior financial periods, is true and correct and fairly discloses the financial condition as of the date of the statement, and there has been no material adverse change in Borrower's financial condition subsequent to the date of the most recent financial statement supplied to the Council and the Authority. Borrower has no liabilities contingent or otherwise involving material amounts except as disclosed in such financial statements.

4. Neither the execution and delivery of this Agreement or any of the other Loan Documents, nor consummation of the transactions contemplated hereby and thereby, nor compliance with the terms, conditions and provisions thereof, will conflict with or result in a breach of any of the terms, conditions or provisions of Borrower's Bylaws, or of any applicable law, regulation, order, writ, injunction or decree of any court, governmental instrumentality or agency or any agreement or instrument to which the Borrower is a party or by which it or any of its properties is subject or bound, or result in the creation or imposition of any lien, charge, security interest or encumbrance of any nature whatsoever upon any of its property.

5. No actions, litigation, suits, arbitrations or claims, including those for unpaid indebtedness, are pending or threatened against Borrower or the Facility and no other event has occurred which may materially and adversely affect Borrower's financial condition or the Facility. Moreover, no material fact exists that has not been disclosed to the Council and the Authority which would have a material adverse effect on the Facility.

6. Except as set forth in that certain Environmental Site Assessment dated April 7, 1999, prepared for Corotoman by Chambers Consulting, Inc., a copy of which has been delivered to the Authority, to the best of Borrower's knowledge: (i) the Facility is in compliance with all applicable federal, state or local statutes, rules, regulations, orders or ordinances now existing or hereinafter enacted, relating to any hazardous or toxic waste,

materials or substances, petroleum and petroleum products, and asbestos (collectively the "Hazardous Materials"), including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (codified in scattered sections of 26 U.S.C., 33 U.S.C. and 42 U.S.C. § 9601, et seq.); the Clean Water Act of 1977 (33 U.S.C. § 1251, et seq.); the Clean Air Act (42 U.S.C. § 7401, et seq.); the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6901, et seq.); the Safe Drinking Water Act (21 U.S.C. § 349; 42 U.S.C. §§ 201 and 300f through 300j-9); the Toxic Substances Control Act (15 U.S.C. § 2601, et seq.); the West Virginia Water Pollution Control Act (W. Va. Code § 20-5A-1, et seq.); the West Virginia Hazardous Waste Management Act (W. Va. Code § 20-5E-1, et seq.); the West Virginia Underground Storage Tank Act (W. Va. Code § 20-5H-1, et seq.); and the West Virginia Groundwater Protection Act (W. Va. Code § 20-5M-1, et seq.) (collectively the "Environmental Laws"); (ii) any handling, transportation, storage or usage of Hazardous Materials on the Facility has been in compliance with all Environmental Laws; (iii) there has been no past or present leak, spill, release, discharge, emission or disposal of Hazardous Materials on the Facility in violation of any Environmental Laws; and (iv) Borrower has not received any citations, warning notices, notices of violation, administrative complaints, judicial complaints or other notices from any environmental or governmental agency alleging that conditions on the Facility are in violation of any Environmental Laws. This representation shall survive the termination of this Agreement without limitation.

7. Borrower shall cause Ticketmaster to acquire and maintain in good standing all permits, licenses, consents and approvals required under federal, state or local statutes, ordinances, rules and regulations for the use and occupancy of the Facility

F. Affirmative Covenants

So long as this Agreement is in effect and any part of the Loan is outstanding, Borrower shall:

1. Promptly inform Authority in writing of (i) all material adverse changes with regard to the Facility, and (ii) all litigation, proceedings and claims, either pending or threatened, relating to the Facility which could materially affect its financial condition.

2. Provide to the Authority annually, as soon as available, but in any event within 120 days after the close of its fiscal year, a full and complete signed copy of its annual financial report prepared in a manner reasonably acceptable to the Authority, which report shall include a balance sheet of Borrower as of the end of such year and statement of profit and loss of Borrower reflecting the results of its operations during such year.

3. Within 30 days after the request therefor, furnish to the Authority such additional information pertaining to the Loan, any collateral for the Loan or the Facility as Authority may reasonably request from time to time.

4. Obtain and keep in full force and effect (or cause to be obtained and kept in full force and effect) comprehensive general liability insurance with a combined single limit of not less than \$1,000,000 per occurrence for bodily injury and property damage, naming the Authority as an additional insured, which insures against liability and damage arising out of the Ticketmaster's use, occupancy and maintenance of the facility and all other areas appurtenant thereto.

5. Obtain and keep in full force and effect (or cause to be obtained and kept in full force and effect) hazard insurance covering loss or damage to the Facility in an amount of not less than eighty percent (80%) of the replacement value thereof, as the same may exist from time to time, but in any event in such amounts as may be necessary to prevent application of co-insurance under the terms of the applicable policy, providing protection against all perils, including, without limitation, the classification of fire, lightning, extended coverage, sprinkler leakage and vandalism, and naming the Authority as an additional insured and loss payee.

6. Cause certificates evidencing the existence and amounts of the liability and hazard insurance required under this Section F to be delivered to the Authority. No such insurance policy shall be cancelable or subject to reduction in coverage except after 30 days prior written notice to the Authority. Borrower shall cause Ticketmaster, within a reasonable time after the expiration of such insurance policies, to furnish the Authority with certificates of insurance evidencing the renewal thereof.

7. Use its best efforts to cause Ticketmaster to maintain proper Workers' Compensation coverage and to post a proper wage bond with the State of West Virginia for the employees of Ticketmaster at the Facility.

8. Perform and comply with all terms, conditions and provisions set forth in this Agreement and in all other loan documents mentioned herein in a timely manner.

9. To the extent legally allowable, cause Ticketmaster to conduct its business affairs at the Facility in compliance with all applicable federal, state and municipal laws, ordinances, rules and regulations respecting its properties, leases, charters, business and operations, including compliance with all laws, ordinances, rules and regulations with regard to Ticketmaster's employees and employee benefits.

10. Permit the Authority, or its designees, at any reasonable time to examine and audit Borrower's books, accounts and records, and make copies and memoranda of its books, accounts, and records. If Borrower now or at any time hereafter maintains any records (including, without limitation, computer generated records and computer programs for the generation of such records) in the possession of a third party, then Borrower shall, upon request of the Authority, notify such party to permit Authority free access to such records during normal business hours, and to provide Authority with copies of any records it may request, all at Authority's expense.

11. Permit the Authority and its designees the right, but the Authority shall be under no obligation, to inspect the Facility of Borrower, including the right to perform tests thereupon and take samples therefrom during normal business hours to determine whether environmental hazards exist with regard to such Facility and whether Borrower and Ticketmaster are in compliance with all applicable Environmental Laws.

12. Make, execute and deliver to the Authority such promissory notes, deeds of trust, assignments of rents, instruments, documents and other agreements as Authority or its attorneys may reasonably request to evidence and secure the payment of the indebtedness and to create and perfect all liens described herein. Moreover, at the request of the Authority, Borrower will promptly and duly execute and deliver such additional documents and assurances and take such additional actions as may be necessary or desirable in order to correct any defect, error or omission which may at any time be discovered with respect to the Loan or to more effectively carry out the interest and purpose of this Agreement.

13. Agree to acquire and maintain in good standing all permits, licenses, consents and approvals required under federal, state or local statutes, ordinances, rules and regulations for the repair, use and occupancy of the Facility and any future improvements made to or constructed upon the Facility. Borrower shall also require any lessee(s) to acquire and maintain in good standing all permits, licenses, consents and approvals required under federal, state or local statutes, ordinances, rules and regulations for the use and occupancy of the Facility and any future improvements made to or constructed upon the Facility.

14. Provide to the West Virginia Development Office, on or before the 1st day of November of each year, a report showing the total number of permanent and part-time employees working at the Facility site on the 30th day of September of such year and the aggregate total wages paid during the twelve month period ending on the 30th day of September of such year. This report shall be provided annually for the term of the Loan.

G. Negative Covenants

Borrower covenants and agrees that while any part of the Loan is outstanding, Borrower shall not:

1. Create, permit to be created or suffer to exist any liens or encumbrances upon the Facility other than the Lease without the prior written consent of the Authority and the Council.

2. Sell, assign, exchange, transfer or otherwise dispose of any of the collateral for the Loan without the prior written consent of the Authority and the Council.

3. Furnish the Authority any certificate or other document containing any untrue statement of material fact or omitting a material fact necessary to make it not misleading in light of the circumstances under which it was furnished.

4. Amend the Lease without the prior written consent of the Authority and the Council.

H. Events of Default

The Loan shall, at the Authority's option, become immediately due and payable without notice or demand upon the occurrence of any one or more of the following (herein, an "Event of Default"):

1. Borrower shall fail to pay as and when due any installment of principal or interest due on the Note or any portion thereof and such failure shall continue for a period of 10 days thereafter; or

2. Borrower or Corotoman shall fail to pay as and when due any installment of principal or interest due on, or shall otherwise be in default under, any indebtedness or other obligation owed to any creditor of Borrower or Corotoman pertaining to the Facility other than the Authority (including, but not limited to, the Bank); or

3. Any representation or warranty made to the Authority or the Council herein or otherwise in connection with or to induce the making of the Loan shall prove, in any material respect, to have been false, incorrect or incomplete on the date when made; or

4. Borrower shall default in the performance of any other agreement, obligation, covenant or condition contained in this Agreement or in any of the other Loan Documents, and such default shall not have been remedied within thirty days after written notice thereof is given to Borrower; or

5. Borrower, Ticketmaster or Guarantor shall (i) be dissolved or terminated, (ii) admit in writing its or his insolvency or its or his inability to discharge its or his obligations as they become due, (iii) adopt any resolution or take any other step in contemplation of bankruptcy, insolvency, receivership, liquidation, suspension or cessation of its or his business or the winding up of its or his affairs or in contemplation of any proceeding under any law for reorganization, debt adjustment, arrangement, composition, extension or debtor relief, or (iv) make any assignment for the benefit of creditors or commit any act of bankruptcy; or

6. There shall be filed or brought against Borrower, Ticketmaster or Guarantor and either (i) adjudicated adversely to it or him, or consented to or acquiesced in by it or him in any manner, or (ii) not dismissed within 30 days, any petition in bankruptcy or any insolvency, receivership, trusteeship, reorganization, debt adjustment, arrangement,

composition, extension, debtor relief, dissolution, liquidation, winding up or any similar proceeding, or any proceeding in which its or his ability to discharge its or his obligations as they become due is in issue.

7. Commencement of foreclosure against the Facility, whether by judicial proceeding, self-help, re-possession or any other method, by any creditor of Borrower (other than the Authority) or Corotoman.

I. Remedies

Upon the occurrence of any Event of Default, and at any time thereafter, the Authority shall have all of the rights and remedies provided herein and in any of the Loan Documents. In addition, the Authority may, at its option, pursue any other remedy available to it at law or in equity. The rights and remedies hereunder of the Authority are cumulative and not exclusive of any rights or remedies which it would otherwise have.

J. Miscellaneous Provisions

The parties agree to the following miscellaneous provisions:

1. This Agreement constitutes the entire understanding and agreement of the parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless made in writing and signed by the party or parties sought to be charged or bound by such alteration or amendment.

2. This Agreement shall be governed by and construed in accordance with the laws of the State of West Virginia.

3. BORROWER HEREBY IRREVOCABLY (A) AGREES THAT ANY SUIT, ACTION OR OTHER LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS MAY BE BROUGHT IN ANY FEDERAL OR STATE COURT LOCATED OR SITTING IN KANAWHA COUNTY, WEST VIRGINIA, AND CONSENTS TO THE JURISDICTION OF SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING, AND (B) WAIVES ANY OBJECTION WHICH IT MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY SUCH COURT AND ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. BORROWER HEREBY IRREVOCABLY CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH SUIT, ACTION OR PROCEEDING BY MAILING OF COPIES OF SUCH PROCESS TO BORROWER AT ITS ADDRESS PROVIDED HEREIN PURSUANT HERETO. BORROWER AGREES THAT THE FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTION BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. ALL MAILINGS HEREUNDER SHALL BE BY CERTIFIED OR

REGISTERED MAIL, RETURN RECEIPT REQUESTED. NOTHING HEREIN SHALL AFFECT THE RIGHT OF THE AUTHORITY OR THE COUNCIL TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW.

4. BORROWER HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHTS BORROWER MAY HAVE TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM OF ANY NATURE RELATING TO THIS AGREEMENT OR ANY OF THE LOAN DOCUMENTS, EXECUTED IN CONNECTION WITH THIS AGREEMENT, OR ANY TRANSACTION CONTEMPLATED BY ANY OF SUCH DOCUMENTS. BORROWER ACKNOWLEDGES THAT THE FOREGOING WAIVER IS KNOWING AND VOLUNTARY.

5. Borrower agrees to pay upon demand, all reasonable and necessary costs and expenses incurred by the Council and the Authority in connection with the preparation and enforcement of this Agreement, all other Loan Documents and any amendments to such documents which may be made from time to time after the date hereof, including, but not limited to, reasonable attorneys' fees and expenses. This includes the reasonable attorneys' fees and legal expenses of the Authority, whether or not there is any lawsuit, including reasonable attorneys' fees for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services. Borrower, or an assigned third party, also will pay any court costs, in addition to all other sums provided by law.

6. All notices to be given under this Agreement shall be in writing and shall be deemed sufficiently given when mailed by certified mail, return receipt requested, to the following addresses:

- (1) WEST VIRGINIA WATER DEVELOPMENT AUTHORITY
180 Association Drive
Charleston, West Virginia 25311
Attention: Director
- (2) WEST VIRGINIA INFRASTRUCTURE AND JOBS
DEVELOPMENT COUNCIL
980 One Valley Square
Charleston, West Virginia 25301
Attention: Executive Secretary
- (3) REGIONAL DEVELOPMENT AUTHORITY OF CHARLESTON -
KANAWHA COUNTY, W. Va., METROPOLITAN REGION, a West
Virginia public corporation
P.O. Box 3627
Charleston, West Virginia 25336-3627
Attention: Executive Director

With a copy to:

- (4) COROTOMAN, INC.
One Wellford Way
Charleston, West Virginia 25311
Attention: John Wellford
- (5) JOHN WELLFORD
One Wellford Way
Charleston, West Virginia 25311

All notice periods under this Agreement shall commence on and include the date upon which such notice was sent to the addressee. Any change in the address for notice to a party shall be given in the same manner provided in this Section J.6.

7. If a court of competent jurisdiction finds any provision of this Agreement to be invalid or unenforceable as to any person, entity or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons, entities or circumstances. If feasible, any such offending provision shall be deemed to be modified in order to comply with the limits of enforceability or validity; provided, however, that if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Agreement in all other respects shall remain valid and enforceable.

8. All warranties, representations, covenants and indemnities made by Borrower in this Agreement or in any certificate or other instrument delivered by Borrower to the Authority in connection herewith shall be considered to have been relied upon by the Authority and will survive the making of the Loan and shall continue in full force and effect so long as the Note is outstanding and until payment in full of all of Borrower's obligations hereunder and under the Loan Documents. The warranties, covenants and indemnities set forth in this Agreement may be assigned or otherwise transferred by the Authority to its successors and assigns and to any subsequent purchasers of all or any portion of any collateral securing the Loan by, through or under the Authority, without notice to or the consent of Borrower.

9. The Authority shall not be deemed to have waived any rights under this Agreement unless such waiver is given in writing and signed by the Authority. No delay or omission on the part of the Authority in exercising any right shall operate as a waiver of that right or any other right. A waiver by the Authority of a provision of this Agreement shall not prejudice or constitute a waiver of its right otherwise to demand strict compliance with that provision or any other provision of this Agreement. No prior waiver by the Authority, nor any course of dealing between Authority and Borrower shall constitute a waiver of any rights of the Authority or of any obligations of Borrower. Whenever the consent of the Authority is required under this Agreement, the granting of such consent by the Authority in any instance shall not constitute continuing consent in subsequent instances

where such consent is required and in all cases such consent may be granted or withheld in the sole discretion of the Authority.

10. This Agreement shall be binding upon and shall inure to the benefit of the parties and their successors and assigns; provided, however, that Borrower may not sell, assign, convey or otherwise transfer any rights or obligations hereunder without the prior written consent of the Authority.

11. This Agreement shall continue in full force and effect so long as any part of the Loan remains outstanding or has not been fully and finally paid, performed or satisfied.

12. The Authority may sell, transfer or otherwise assign all of its right, title and interest in and to this Agreement and the Loan Documents without the consent of Borrower, but shall notify Borrower in writing of any such sale, transfer or assignment within 30 days after the occurrence thereof.

13. No inference shall be drawn in favor of or against any party because of their participation in the drafting of this Agreement or any of the other documents relating to the Loan.

14. Nothing in this Agreement, whether express or implied, shall be construed to give to any person other than the parties hereto any legal or equitable right, remedy or claim under or in respect of this Agreement, which is intended for the sole and exclusive benefit of the parties hereto.

15. Nothing herein shall be construed as creating or evidencing a joint venture by and among the Authority, the Council and Borrower in connection with the subject matter hereof.

16. The Commitment Letter is incorporated herein by reference and the terms, conditions and covenants thereof are hereby made a part of this Agreement to the same extent and with the same effect as if they were fully set forth herein. This Agreement is intended to supplement the Commitment Letter and does not and is not intended to supersede the Commitment Letter, except that to the extent that any provision of the Commitment Letter conflicts with any provision of this Agreement, the provisions of this Agreement shall govern.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officers duly authorized, all as of the date and year first above written.

WEST VIRGINIA WATER DEVELOPMENT
AUTHORITY

By: Samuel B. Gorksky
Its: DIRECTOR

REGIONAL DEVELOPMENT AUTHORITY
OF CHARLESTON - KANAWHA COUNTY,
W. Va., METROPOLITAN REGION, a West
Virginia public corporation

By: Wilma J. Davis
Its: V. Chairman

SCHEDULE Z

United National Bank
Corporate Trust Department
ABA-051900395
Account No.: 8005682
Confirmation: Kathy Smith
304-348-8427

EXHIBIT A

Legal Description

Being designated as NorthGate Corporate Center, Ticketmaster Lot and being a part of that tract described in a deed as recorded in the Kanawha County Clerk's Office in Deed Book 2206, page 241, located in Charleston North District, Kanawha County, West Virginia and more particularly described as follows:

Beginning at Point 2 in the northeast corner of the Corporate Center, which is N. 31° 51' 41" E. and 3,147.60 feet from Permanent Point No. 1, (Permanent Point No. 1 is a 1/8" dia. hole in the leg of the Appalachian Power Company's Steel Tower having a coordinate of 494,123.287 N and 1,826,381.103 E said Permanent Point No. 1 has a back sight to Permanent Point No. 2 of N. 78° 56' 16" E. for a distance of 2,110.99 feet to another hole in an adjacent steel tower having coordinates of 494,528.332 N and 1,828,452,865 E); thence from point of beginning N. 00° 19' 56" E. for 69.08 feet to Point 2; thence N. 51° 58' 26" E. for 91.80 feet to Point 3; thence N. 75° 22' 20" E. for 217.71 feet to Point 4; thence East for 232.66 feet to Point 5; thence N. 69° 35' 17" E. for 243.22 feet to Point 6; thence S. 71° 24' 46" E. for 172.49 feet to Point 7; thence S. 22° 54' 21" E. for 76.74 feet to Point 8; thence S. 02° 25' 41" E. for 185.53 feet to Point 9; thence S. 19° 44' 47" W. for 153.55 feet to Point 10; thence N. 84° 47' 05" W. for 79.47 feet to Point 11; thence S. 33° 21' 45" E. for 193.88 feet to Point 12; thence across the end of Dietrick N. 88° 43' 36" W. for 323.78 feet to Point 13; thence N. 21° 49' 04" E. for 19.00 feet to Point 14; thence N. 00° 19' 48" E. for 169.70 feet to Point 15; thence N. 22° 43' 48" W. for 46.99 feet to Point 16; thence N. 41° 01' 52" W. for 30.73 feet to Point 17; thence N. 51° 42' 07" W. for 39.85 feet to Point 18; thence N. 58° 07' 12" W. for 58.21 feet to Point 19; thence N. 78° 26' 55" W. for 22.65 feet to Point 20; thence N. 89° 55' 31" W. for 463.92 feet to Point 21; thence N. 00° 00' 00" E. for 23.18 feet to Point 1, the point of beginning, containing by survey 297,440.00 square feet or 6.8 acres, more or less.

Together with the right to use Dietrick Boulevard and Corporate Landing for ingress and egress.

Exhibit B

PROMISSORY NOTE

\$3,000,000.00

Charleston, West Virginia
August 5, 1999

FOR VALUE RECEIVED, the undersigned, **REGIONAL DEVELOPMENT AUTHORITY OF CHARLESTON-KANAWHA COUNTY, W.VA., METROPOLITAN REGION**, a West Virginia public corporation (the "Borrower"), does hereby promise to pay to the order of the **WEST VIRGINIA WATER DEVELOPMENT AUTHORITY**, on behalf of the **WEST VIRGINIA INFRASTRUCTURE AND JOBS DEVELOPMENT COUNCIL** (the "Lender"), at its principal place of business at 180 Association Drive, Charleston, West Virginia 25311, the principal sum of \$3,000,000, together with interest on the unpaid principal balances outstanding from time to time on this Note, computed on the basis of a 360 day year, payable for the actual number of days in the payment period.

1. **Monthly Payments.** The principal of and interest on this Note shall be payable as follows:

a. Commencing on the first day of November, 1999, and continuing thereafter on the same day of each of the next succeeding 237 months, the Borrower shall make a payment of principal and interest in an amount which the Lender determines to be sufficient to fully amortize the unpaid principal of this Note, at the annual rate of interest applicable to this Note, over the remainder of its 20 year term, which payment amounts are set forth in the Debt Service Schedule attached hereto.

b. On the first day of August, 2019, the Borrower shall make a final payment to Lender in an amount equal to the unpaid principal balance on this Note together with all accrued interest hereon.

2. **Prepayment.** The principal on this Note may be prepaid at any time without penalty. Prepayments of the loan evidenced by this Note (the "Loan") may not be reborrowed. Partial prepayments will be applied to principal installments due in inverse order of maturity.

3. **Interest Rate.** The principal balances outstanding on the Loan shall bear interest at a fixed rate of 4.75% per annum.

4. **Evidence and Security.** This Note is issued and disbursement of the Loan proceeds have been made pursuant to that certain Loan Agreement of even date herewith between Lender and Borrower (the "Loan Agreement"). Payment of this Note is secured by a Deed of Trust and Fixture Filing and an Assignment of Rentals and Leases, all of even date herewith, and by certain other collateral referred to in the Loan Agreement, all of which, including the Loan Agreement, together with the other instruments, documents and agreements securing, evidencing or otherwise pertaining to the Loan are herein collectively referred to as the "Collateral Documents".

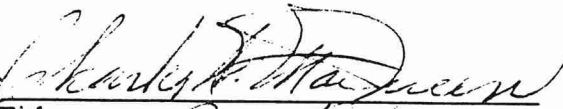
5. **Remedies.** If an Event of Default (as defined in the Loan Agreement) shall have occurred and be continuing or there shall be a breach of or a default in the performance of any of the terms, conditions, warranties, covenants and agreements of any of the other Collateral Documents, then, upon the expiration of any applicable grace period, the entire unpaid principal balance on this Note, together with all accrued interest hereon, shall, at the option of the holder hereof, without notice, immediately become due and payable for all

purposes, and the holder may exercise the rights and remedies provided for in the Collateral Documents and under applicable law.

6. **Applicable Law.** This Note shall be governed and the rights and obligations of the parties hereto shall be construed under the laws of the State of West Virginia.

7. **Waiver.** Each party to this Note, whether as principal, endorser, guarantor, surety or otherwise, jointly and severally, waives presentment, demand, protest and notice of dishonor and agrees that an extension or extensions of time of payment of this Note or any installment hereof may be made before, at or after maturity by agreement with any one or more of the parties hereto without notice to and without releasing the liability of any other party.

**REGIONAL
DEVELOPMENT AUTHORITY
OF CHARLESTON-KANAWHA COUNTY,
W.VA., METROPOLITAN REGION**

By 
Title: President

CHASFS3:143550

Regional Development Authority of Charleston
Kanawha County, West Virginia, Metropolitan Region
Infrastructure Fund (Series 1998 C) Loan of \$3,000,000
4.75% Interest Rate

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
9/01/1999	-	-	-	-
10/01/1999	-	-	-	-
11/01/1999	7,609.00	4.750%	11,875.00	19,484.00
12/01/1999	7,640.00	4.750%	11,844.88	19,484.88
1/01/2000	7,670.00	4.750%	11,814.64	19,484.64
2/01/2000	7,700.00	4.750%	11,784.28	19,484.28
3/01/2000	7,731.00	4.750%	11,753.80	19,484.80
4/01/2000	7,761.00	4.750%	11,723.20	19,484.20
5/01/2000	7,792.00	4.750%	11,692.48	19,484.48
6/01/2000	7,823.00	4.750%	11,661.63	19,484.63
7/01/2000	7,854.00	4.750%	11,630.67	19,484.67
8/01/2000	7,885.00	4.750%	11,599.58	19,484.58
9/01/2000	7,916.00	4.750%	11,568.37	19,484.37
10/01/2000	7,947.00	4.750%	11,537.03	19,484.03
11/01/2000	7,979.00	4.750%	11,505.58	19,484.58
12/01/2000	8,010.00	4.750%	11,473.99	19,483.99
1/01/2001	8,042.00	4.750%	11,442.29	19,484.29
2/01/2001	8,074.00	4.750%	11,410.45	19,484.45
3/01/2001	8,106.00	4.750%	11,378.49	19,484.49
4/01/2001	8,138.00	4.750%	11,346.41	19,484.41
5/01/2001	8,170.00	4.750%	11,314.20	19,484.20
6/01/2001	8,203.00	4.750%	11,281.86	19,484.86
7/01/2001	8,235.00	4.750%	11,249.39	19,484.39
8/01/2001	8,268.00	4.750%	11,216.79	19,484.79
9/01/2001	8,300.00	4.750%	11,184.06	19,484.06
10/01/2001	8,333.00	4.750%	11,151.21	19,484.21
11/01/2001	8,366.00	4.750%	11,118.22	19,484.22
12/01/2001	8,399.00	4.750%	11,085.11	19,484.11
1/01/2002	8,433.00	4.750%	11,051.86	19,484.86
2/01/2002	8,466.00	4.750%	11,018.48	19,484.48
3/01/2002	8,500.00	4.750%	10,984.97	19,484.97
4/01/2002	8,533.00	4.750%	10,951.32	19,484.32
5/01/2002	8,567.00	4.750%	10,917.55	19,484.55
6/01/2002	8,601.00	4.750%	10,883.64	19,484.64
7/01/2002	8,635.00	4.750%	10,849.59	19,484.59
8/01/2002	8,669.00	4.750%	10,815.41	19,484.41
9/01/2002	8,703.00	4.750%	10,781.09	19,484.09
10/01/2002	8,738.00	4.750%	10,746.65	19,484.65
11/01/2002	8,772.00	4.750%	10,712.06	19,484.06
12/01/2002	8,807.00	4.750%	10,677.34	19,484.34
1/01/2003	8,842.00	4.750%	10,642.47	19,484.47
2/01/2003	8,877.00	4.750%	10,607.47	19,484.47
3/01/2003	8,912.00	4.750%	10,572.34	19,484.34
4/01/2003	8,947.00	4.750%	10,537.06	19,484.06
5/01/2003	8,983.00	4.750%	10,501.64	19,484.64
6/01/2003	9,018.00	4.750%	10,466.09	19,484.09
7/01/2003	9,054.00	4.750%	10,430.39	19,484.39

Regional Development Authority of Charleston
Kanawha County, West Virginia, Metropolitan Region
Infrastructure Fund (Series 1998 C) Loan of \$3,000,000
4.75% Interest Rate

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
8/01/2003	9,090.00	4.750%	10,394.55	19,484.55
9/01/2003	9,126.00	4.750%	10,358.57	19,484.57
10/01/2003	9,162.00	4.750%	10,322.45	19,484.45
11/01/2003	9,198.00	4.750%	10,286.18	19,484.18
12/01/2003	9,235.00	4.750%	10,249.77	19,484.77
1/01/2004	9,271.00	4.750%	10,213.22	19,484.22
2/01/2004	9,308.00	4.750%	10,176.52	19,484.52
3/01/2004	9,345.00	4.750%	10,139.67	19,484.67
4/01/2004	9,382.00	4.750%	10,102.68	19,484.68
5/01/2004	9,419.00	4.750%	10,065.55	19,484.55
6/01/2004	9,456.00	4.750%	10,028.26	19,484.26
7/01/2004	9,494.00	4.750%	9,990.83	19,484.83
8/01/2004	9,531.00	4.750%	9,953.25	19,484.25
9/01/2004	9,569.00	4.750%	9,915.53	19,484.53
10/01/2004	9,607.00	4.750%	9,877.65	19,484.65
11/01/2004	9,645.00	4.750%	9,839.62	19,484.62
12/01/2004	9,683.00	4.750%	9,801.44	19,484.44
1/01/2005	9,721.00	4.750%	9,763.11	19,484.11
2/01/2005	9,760.00	4.750%	9,724.64	19,484.64
3/01/2005	9,799.00	4.750%	9,686.00	19,485.00
4/01/2005	9,837.00	4.750%	9,647.21	19,484.21
5/01/2005	9,876.00	4.750%	9,608.28	19,484.28
6/01/2005	9,915.00	4.750%	9,569.18	19,484.18
7/01/2005	9,955.00	4.750%	9,529.94	19,484.94
8/01/2005	9,994.00	4.750%	9,490.53	19,484.53
9/01/2005	10,034.00	4.750%	9,450.97	19,484.97
10/01/2005	10,073.00	4.750%	9,411.25	19,484.25
11/01/2005	10,113.00	4.750%	9,371.38	19,484.38
12/01/2005	10,153.00	4.750%	9,331.35	19,484.35
1/01/2006	10,193.00	4.750%	9,291.16	19,484.16
2/01/2006	10,234.00	4.750%	9,250.82	19,484.82
3/01/2006	10,274.00	4.750%	9,210.31	19,484.31
4/01/2006	10,315.00	4.750%	9,169.64	19,484.64
5/01/2006	10,356.00	4.750%	9,128.81	19,484.81
6/01/2006	10,397.00	4.750%	9,087.81	19,484.81
7/01/2006	10,438.00	4.750%	9,046.66	19,484.66
8/01/2006	10,479.00	4.750%	9,005.34	19,484.34
9/01/2006	10,521.00	4.750%	8,963.86	19,484.86
10/01/2006	10,562.00	4.750%	8,922.22	19,484.22
11/01/2006	10,604.00	4.750%	8,880.41	19,484.41
12/01/2006	10,646.00	4.750%	8,838.44	19,484.44
1/01/2007	10,688.00	4.750%	8,796.30	19,484.30
2/01/2007	10,731.00	4.750%	8,753.99	19,484.99
3/01/2007	10,773.00	4.750%	8,711.51	19,484.51
4/01/2007	10,816.00	4.750%	8,668.87	19,484.87
5/01/2007	10,858.00	4.750%	8,626.06	19,484.06
6/01/2007	10,901.00	4.750%	8,583.08	19,484.08

Regional Development Authority of Charleston
Kanawha County, West Virginia, Metropolitan Region
Infrastructure Fund (Series 1998 C) Loan of \$3,000,000
4.75% Interest Rate

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
7/01/2007	10,945.00	4.750%	8,539.93	19,484.93
8/01/2007	10,988.00	4.750%	8,496.60	19,484.60
9/01/2007	11,031.00	4.750%	8,453.11	19,484.11
10/01/2007	11,075.00	4.750%	8,409.44	19,484.44
11/01/2007	11,119.00	4.750%	8,365.61	19,484.61
12/01/2007	11,163.00	4.750%	8,321.59	19,484.59
1/01/2008	11,207.00	4.750%	8,277.41	19,484.41
2/01/2008	11,251.00	4.750%	8,233.04	19,484.04
3/01/2008	11,296.00	4.750%	8,188.51	19,484.51
4/01/2008	11,341.00	4.750%	8,143.80	19,484.80
5/01/2008	11,386.00	4.750%	8,098.90	19,484.90
6/01/2008	11,431.00	4.750%	8,053.83	19,484.83
7/01/2008	11,476.00	4.750%	8,008.59	19,484.59
8/01/2008	11,521.00	4.750%	7,963.16	19,484.16
9/01/2008	11,567.00	4.750%	7,917.56	19,484.56
10/01/2008	11,613.00	4.750%	7,871.77	19,484.77
11/01/2008	11,659.00	4.750%	7,825.80	19,484.80
12/01/2008	11,705.00	4.750%	7,779.65	19,484.65
1/01/2009	11,751.00	4.750%	7,733.32	19,484.32
2/01/2009	11,798.00	4.750%	7,686.81	19,484.81
3/01/2009	11,844.00	4.750%	7,640.11	19,484.11
4/01/2009	11,891.00	4.750%	7,593.22	19,484.22
5/01/2009	11,938.00	4.750%	7,546.15	19,484.15
6/01/2009	11,986.00	4.750%	7,498.90	19,484.90
7/01/2009	12,033.00	4.750%	7,451.46	19,484.46
8/01/2009	12,081.00	4.750%	7,403.83	19,484.83
9/01/2009	12,128.00	4.750%	7,356.00	19,484.00
10/01/2009	12,176.00	4.750%	7,308.00	19,484.00
11/01/2009	12,225.00	4.750%	7,259.80	19,484.80
12/01/2009	12,273.00	4.750%	7,211.41	19,484.41
1/01/2010	12,322.00	4.750%	7,162.83	19,484.83
2/01/2010	12,370.00	4.750%	7,114.06	19,484.06
3/01/2010	12,419.00	4.750%	7,065.09	19,484.09
4/01/2010	12,469.00	4.750%	7,015.93	19,484.93
5/01/2010	12,518.00	4.750%	6,966.58	19,484.58
6/01/2010	12,567.00	4.750%	6,917.03	19,484.03
7/01/2010	12,617.00	4.750%	6,867.28	19,484.28
8/01/2010	12,667.00	4.750%	6,817.34	19,484.34
9/01/2010	12,717.00	4.750%	6,767.20	19,484.20
10/01/2010	12,768.00	4.750%	6,716.86	19,484.86
11/01/2010	12,818.00	4.750%	6,666.32	19,484.32
12/01/2010	12,869.00	4.750%	6,615.58	19,484.58
1/01/2011	12,920.00	4.750%	6,564.64	19,484.64
2/01/2011	12,971.00	4.750%	6,513.50	19,484.50
3/01/2011	13,022.00	4.750%	6,462.16	19,484.16
4/01/2011	13,074.00	4.750%	6,410.61	19,484.61
5/01/2011	13,126.00	4.750%	6,358.86	19,484.86

Regional Development Authority of Charleston
Kanawha County, West Virginia, Metropolitan Region
Infrastructure Fund (Series 1998 C) Loan of \$3,000,000
4.75% Interest Rate

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
6/01/2011	13,178.00	4.750%	6,306.90	19,484.90
7/01/2011	13,230.00	4.750%	6,254.74	19,484.74
8/01/2011	13,282.00	4.750%	6,202.37	19,484.37
9/01/2011	13,335.00	4.750%	6,149.80	19,484.80
10/01/2011	13,387.00	4.750%	6,097.01	19,484.01
11/01/2011	13,440.00	4.750%	6,044.02	19,484.02
12/01/2011	13,494.00	4.750%	5,990.82	19,484.82
1/01/2012	13,547.00	4.750%	5,937.41	19,484.41
2/01/2012	13,601.00	4.750%	5,883.79	19,484.79
3/01/2012	13,655.00	4.750%	5,829.95	19,484.95
4/01/2012	13,709.00	4.750%	5,775.90	19,484.90
5/01/2012	13,763.00	4.750%	5,721.63	19,484.63
6/01/2012	13,817.00	4.750%	5,667.15	19,484.15
7/01/2012	13,872.00	4.750%	5,612.46	19,484.46
8/01/2012	13,927.00	4.750%	5,557.55	19,484.55
9/01/2012	13,982.00	4.750%	5,502.42	19,484.42
10/01/2012	14,037.00	4.750%	5,447.08	19,484.08
11/01/2012	14,093.00	4.750%	5,391.52	19,484.52
12/01/2012	14,149.00	4.750%	5,335.73	19,484.73
1/01/2013	14,205.00	4.750%	5,279.72	19,484.72
2/01/2013	14,261.00	4.750%	5,223.50	19,484.50
3/01/2013	14,317.00	4.750%	5,167.05	19,484.05
4/01/2013	14,374.00	4.750%	5,110.37	19,484.37
5/01/2013	14,431.00	4.750%	5,053.48	19,484.48
6/01/2013	14,488.00	4.750%	4,996.35	19,484.35
7/01/2013	14,545.00	4.750%	4,939.01	19,484.01
8/01/2013	14,603.00	4.750%	4,881.43	19,484.43
9/01/2013	14,661.00	4.750%	4,823.63	19,484.63
10/01/2013	14,719.00	4.750%	4,765.60	19,484.60
11/01/2013	14,777.00	4.750%	4,707.33	19,484.33
12/01/2013	14,836.00	4.750%	4,648.84	19,484.84
1/01/2014	14,894.00	4.750%	4,590.12	19,484.12
2/01/2014	14,953.00	4.750%	4,531.16	19,484.16
3/01/2014	15,013.00	4.750%	4,471.97	19,484.97
4/01/2014	15,072.00	4.750%	4,412.54	19,484.54
5/01/2014	15,132.00	4.750%	4,352.88	19,484.88
6/01/2014	15,192.00	4.750%	4,292.99	19,484.99
7/01/2014	15,252.00	4.750%	4,232.85	19,484.85
8/01/2014	15,312.00	4.750%	4,172.48	19,484.48
9/01/2014	15,373.00	4.750%	4,111.87	19,484.87
10/01/2014	15,433.00	4.750%	4,051.02	19,484.02
11/01/2014	15,495.00	4.750%	3,989.93	19,484.93
12/01/2014	15,556.00	4.750%	3,928.59	19,484.59
1/01/2015	15,617.00	4.750%	3,867.02	19,484.02
2/01/2015	15,679.00	4.750%	3,805.20	19,484.20
3/01/2015	15,741.00	4.750%	3,743.14	19,484.14
4/01/2015	15,804.00	4.750%	3,680.83	19,484.83

Regional Development Authority of Charleston
Kanawha County, West Virginia, Metropolitan Region
Infrastructure Fund (Series 1998 C) Loan of \$3,000,000
4.75% Interest Rate

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
5/01/2015	15,866.00	4.750%	3,618.27	19,484.27
6/01/2015	15,929.00	4.750%	3,555.47	19,484.47
7/01/2015	15,992.00	4.750%	3,492.42	19,484.42
8/01/2015	16,055.00	4.750%	3,429.12	19,484.12
9/01/2015	16,119.00	4.750%	3,365.57	19,484.57
10/01/2015	16,183.00	4.750%	3,301.76	19,484.76
11/01/2015	16,247.00	4.750%	3,237.70	19,484.70
12/01/2015	16,311.00	4.750%	3,173.39	19,484.39
1/01/2016	16,376.00	4.750%	3,108.83	19,484.83
2/01/2016	16,440.00	4.750%	3,044.01	19,484.01
3/01/2016	16,506.00	4.750%	2,978.93	19,484.93
4/01/2016	16,571.00	4.750%	2,913.59	19,484.59
5/01/2016	16,636.00	4.750%	2,848.00	19,484.00
6/01/2016	16,702.00	4.750%	2,782.15	19,484.15
7/01/2016	16,768.00	4.750%	2,716.04	19,484.04
8/01/2016	16,835.00	4.750%	2,649.66	19,484.66
9/01/2016	16,901.00	4.750%	2,583.03	19,484.03
10/01/2016	16,968.00	4.750%	2,516.13	19,484.13
11/01/2016	17,036.00	4.750%	2,448.96	19,484.96
12/01/2016	17,103.00	4.750%	2,381.53	19,484.53
1/01/2017	17,171.00	4.750%	2,313.83	19,484.83
2/01/2017	17,239.00	4.750%	2,245.86	19,484.86
3/01/2017	17,307.00	4.750%	2,177.62	19,484.62
4/01/2017	17,375.00	4.750%	2,109.11	19,484.11
5/01/2017	17,444.00	4.750%	2,040.34	19,484.34
6/01/2017	17,513.00	4.750%	1,971.29	19,484.29
7/01/2017	17,583.00	4.750%	1,901.97	19,484.97
8/01/2017	17,652.00	4.750%	1,832.37	19,484.37
9/01/2017	17,722.00	4.750%	1,762.50	19,484.50
10/01/2017	17,792.00	4.750%	1,692.35	19,484.35
11/01/2017	17,863.00	4.750%	1,621.92	19,484.92
12/01/2017	17,933.00	4.750%	1,551.21	19,484.21
1/01/2018	18,004.00	4.750%	1,480.23	19,484.23
2/01/2018	18,076.00	4.750%	1,408.96	19,484.96
3/01/2018	18,147.00	4.750%	1,337.41	19,484.41
4/01/2018	18,219.00	4.750%	1,265.58	19,484.58
5/01/2018	18,291.00	4.750%	1,193.46	19,484.46
6/01/2018	18,363.00	4.750%	1,121.06	19,484.06
7/01/2018	18,436.00	4.750%	1,048.37	19,484.37
8/01/2018	18,509.00	4.750%	975.40	19,484.40
9/01/2018	18,582.00	4.750%	902.13	19,484.13
10/01/2018	18,656.00	4.750%	828.58	19,484.58
11/01/2018	18,730.00	4.750%	754.73	19,484.73
12/01/2018	18,804.00	4.750%	680.59	19,484.59
1/01/2019	18,878.00	4.750%	606.16	19,484.16
2/01/2019	18,953.00	4.750%	531.43	19,484.43
3/01/2019	19,028.00	4.750%	456.41	19,484.41

Regional Development Authority of Charleston
Kanawha County, West Virginia, Metropolitan Region
Infrastructure Fund (Series 1998 C) Loan of \$3,000,000
4.75% Interest Rate

DEBT SERVICE SCHEDULE

Date	Principal	Coupon	Interest	Total P+I
4/01/2019	19,103.00	4.750%	381.09	19,484.09
5/01/2019	19,179.00	4.750%	305.48	19,484.48
6/01/2019	19,255.00	4.750%	229.56	19,484.56
7/01/2019	19,331.00	4.750%	153.34	19,484.34
8/01/2019	19,408.00	4.750%	76.82	19,484.82
Total	3,000,000.00	-	1,637,305.95	4,637,305.95

Exhibit C

GUARANTY AGREEMENT

WHEREAS, the undersigned is the owner of all of the capital stock of COROTOMAN, INC. ("Corotoman"), a West Virginia corporation (the undersigned being hereinafter referred to as the "Guarantor"); and

WHEREAS, Corotoman is the owner of Northgate Business Park in Charleston, West Virginia, and has developed and constructed a 23,055 square-foot building on approximately six acres of land located at Northgate (said six acres and the improvements thereon being referred to as the "Project") for lease to Ticketmaster L.L.C. pursuant to a Commercial Lease dated January 14, 1999 between Corotoman and Ticketmaster (the "Lease"); and

WHEREAS, pursuant to a Real Estate Purchase Agreement dated August 5, 1999 between Corotoman and the Regional Development Authority of Charleston - Kanawha County, W. Va., Metropolitan Region (the "Borrower"), Corotoman agreed to sell the Project and assign the Lease to Borrower; and

WHEREAS, pursuant to that certain Loan Agreement (the "Loan Agreement") of even date herewith between the West Virginia Water Development Authority, acting on behalf of the West Virginia Infrastructure and Jobs Development Council (the "Lender") and Borrower, Lender has agreed to make a loan to Borrower in the principal amount of \$3,000,000 for the purpose of purchasing the Project from Corotoman; and

WHEREAS, contemporaneously with the sale of the Project to Borrower, Corotoman will assign to Borrower its interest as landlord under the Lease; and

WHEREAS, Section D(19) of the Loan Agreement (together with all Exhibits attached thereto and all other agreements, instruments and documents required to be executed and delivered pursuant thereto, (including, but not limited to, any deed of trust and assignment of rentals and leases), as any or all of the foregoing may be amended, supplemented or otherwise modified from time to time, collectively referred to herein as the "Agreement"), provides as a condition precedent to the making of the loan to the Borrower under the Agreement that, among other things, the Guarantor execute a guaranty agreement (herein, this "Guaranty") in form and substance satisfactory to the Lender; and

WHEREAS, Guarantor will receive benefits and financial and other advantages from the loan to be made by the Lender to the Borrower;

NOW, THEREFORE, for value received and to induce the Lender to make the loan to the Borrower pursuant to the Agreement, the undersigned Guarantor, with the intent of being legally bound, hereby agrees as follows:

1. Representations and Warranties. Guarantor represents and warrants as follows:

(a) Litigation. There are no actions, suits or proceedings pending against Guarantor or, to the knowledge of Guarantor, threatened against or affecting Guarantor in any court or before or by any governmental department, agency or instrumentality, an adverse decision in which might materially and adversely affect the financial condition of Guarantor or the ability of Guarantor to perform his obligations under this Guaranty.

(b) Taxes. Guarantor has filed (or has obtained extensions of the time by which he is required to file) all tax returns required to be filed by him and has paid all taxes shown due on the returns so filed as well as all other taxes, assessments and governmental charges which have become due, and Guarantor does not know of any proposed tax assessment against him nor of any basis for one except such as are being contested in good faith and by appropriate legal proceedings and as to which adequate reserves have been provided.

2. Guaranty.

(a) Guarantor, as primary obligor and not merely as surety, hereby UNCONDITIONALLY GUARANTEES to the Lender, (i) the due and punctual payment and performance of all of Borrower's obligations under the Lease, as the same may be amended or modified from time to time, and (ii) the due and punctual payment of all present and future indebtedness evidenced by or arising out of the Agreement and any note issued by the Borrower thereunder (whether one or more, the "Note"), including, but not limited to, the due and punctual payment of principal of and interest on that certain Promissory Note of the Borrower payable to the order of the Lender dated August 5, 1999, in the principal amount of \$3,000,000, together with all renewals, extensions or modifications thereof, and the due and punctual payment of all other fees or other charges now or hereafter owed by the Borrower under the Agreement, the Note and the Lease, as and when the same shall become due and payable, whether at maturity, by acceleration or otherwise, according to the terms of the Agreement, the Note and the Lease, and all losses, costs, expenses and attorneys' fees

indebtedness guaranteed hereby which a diligent inquiry would reveal, and absent a request for such information by Guarantor, the Lender shall have no duty to advise Guarantor of information known to the Lender regarding such condition or any such circumstances.

(d) Guarantor agrees that the Lender may and hereby authorizes the Lender without notice, either before or after any of the actions specified in this Section 2(d), or demand and without affecting Guarantor's liability hereunder, from time to time to (i) renew, extend, accelerate or otherwise change the time for payment of, or otherwise change the terms of the indebtedness guaranteed hereby or any part thereof, including increases or decreases in the rate of interest thereon; (ii) accept partial payments on such indebtedness; (iii) take and hold security for the payment of this Guaranty or the indebtedness guaranteed hereby, and exchange, enforce, waive and release any or all such security; (iv) apply such security and direct the order or manner of sale thereof as the Lender in its discretion may determine; and (v) settle, release, compromise, collect or otherwise liquidate any indebtedness and any security therefor in any manner, without affecting or impairing the obligation of Guarantor hereunder. The Lender may from time to time and without notice to the Guarantor assign this Guaranty, the Agreement or the Note, in whole or in part.

(e) The Guarantor shall have no right of subrogation whatsoever with respect to the indebtedness guaranteed hereby or the collateral therefor, unless and until Lender shall have received payment in full of such indebtedness. The Guarantor waives any benefit of and any right to participate in any security now or hereafter held by Lender, unless and until Lender shall have received payment in full of such indebtedness. Guarantor waives

all setoffs and counterclaims and all presentments, demands for performance, notices of non-performance, protests, notices of protest, notices of dishonor, and notices of acceptance of this Guaranty and of the existence, creation, or incurring of new or additional indebtedness.

(f) No delay on the part of the Lender in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise of any right or remedy shall preclude any further exercise thereof or the exercise of any other right or remedy; nor shall any modification or waiver of any of the provisions of this Guaranty be binding upon the Lender except as expressly set forth in a writing duly signed and delivered on behalf of the Lender. No action of the Lender permitted hereunder shall in any way affect or impair the rights of the Lender or affect or impair the obligation of the undersigned under this Guaranty.

(g) It is specifically understood that any modification, limitation or discharge of the indebtedness hereby guaranteed, arising out of or by virtue of any bankruptcy, reorganization or similar proceeding for relief of debtors under federal or state law will not affect, modify, limit or discharge the liability of Guarantor in any manner whatsoever and that this Guaranty will remain and continue in full force and effect and will be enforceable against Guarantor to the same extent and with the same force and effect as if any such proceeding had not been instituted. Guarantor waives all rights and benefits which might accrue to him by reason of any such proceeding and will remain liable to the full extent hereunder, irrespective of any modification, limitation or discharge of the liability of the Borrower that may result from any such proceeding.

(h) Pursuant to the Agreement, this Guaranty has been delivered to the Lender. All payments by the undersigned pursuant to this Guaranty shall be made to the Lender unless otherwise instructed by the Lender in writing.

3. Covenants. Until the termination of this Guaranty, Guarantor shall notify Lender promptly upon the occurrence of any of the following events, and in no event more than 10 days after any such event: (i) Guarantor shall admit in writing his insolvency or inability to discharge his obligations as they become due; (ii) Guarantor shall take any step in contemplation of bankruptcy, insolvency, receivership, liquidation, suspension or cessation of his business or the winding up of his affairs or in contemplation of any proceeding under any law for reorganization, debt adjustment or debtor relief; (iii) Guarantor shall make any assignment for the benefit of creditors or commit any act of bankruptcy; or (iv) there shall be filed against Guarantor and either (A) adjudicated adversely to him, or consented to or acquiesced in by him in any manner, or (B) not dismissed within 30 days, any petition in bankruptcy or in any insolvency, receivership, trusteeship, reorganization, debt adjustment, arrangement, composition, extension, debtor relief, liquidation, winding up or any similar proceeding, or any proceeding in which his ability to discharge his obligations as they become due is in issue. Events of Default. In the event of the occurrence of any of the following events of default (each an "Event of Default"):

- (i) any Event of Default (as defined in the Agreement), and the expiration without cure of any cure period applicable thereto;

- (ii) the failure by Guarantor to perform any of his obligations under this Guaranty; or
- (iii) the termination or attempted termination of this Guaranty by Guarantor,

the Guarantor will, on the demand of the Lender, immediately deposit with the Lender in U.S. dollars all amounts due or to become due under the Agreement and the Note, and the Lender will use such funds to prepay the obligations of the Borrower under the Agreement and the Note. Such amounts will be paid by the Guarantor to the Lender without presentment, demand, protest or notice of any kind, which are hereby expressly waived.

4. Costs. To the extent that the Lender incurs any costs or expenses in protecting or enforcing its rights under the Agreement, the Note, the Lease or this Guaranty, including but not limited to reasonable attorneys' fees and the costs and expenses of litigation, such costs and expenses will be due on demand, will be included in the obligations guaranteed hereby and will bear interest from the incurring or payment thereof at the default rate of interest (or if more, the rate of interest) provided for in the Agreement and the Note.

5. Indemnity. Guarantor agrees to indemnify each of the Lender, its directors, officers, employees and attorneys and each legal entity, if any, that controls the Lender (the "Indemnified Parties") and to hold each Indemnified Party harmless from and against any and all claims, damages, liabilities and expenses (including without limitation all fees of counsel with whom any Indemnified Party may consult and all expenses of litigation or preparation therefor) which any Indemnified Party may incur or which may be

asserted against any Indemnified Party in connection with or arising out of the matters referred to in this Guaranty or in the Agreement, the Lease or the Note by any person, entity or governmental authority (including any person or entity claiming derivatively on behalf of Guarantor or the Borrower), (a) arising from or incurred in connection with any breach of a representation, warranty or covenant by Guarantor or the Borrower, or (b) arising out of or resulting from any suit, action, claim, proceeding or governmental investigation, pending or threatened, whether based on statute, regulation or order, or tort, or contract or otherwise, before any court or governmental authority, which arises out of or relates to this Guaranty, the Agreement, the Lease, the Note, or the use of the proceeds of any of the loans made thereunder; *provided, however*, that the foregoing indemnity agreement shall not apply to claims, damages, liabilities and expenses solely attributable to an Indemnified Party's gross negligence or willful misconduct. The indemnity agreement contained in this Section shall survive the termination of this Guaranty, payment of all indebtedness of the Borrower to the Lender and assignment of any rights hereunder. Guarantor may participate at its expense in the defense of any such action or claim.

6. Continuing Effect; Restoration of Obligations. This Guaranty shall continue in force until the termination of the commitment of the Lender pursuant to the Agreement, or until the payment in full of the Note and all other amounts payable under the Agreement; provided, however, that if at any time all or part of any payment previously applied by the Lender to the indebtedness guaranteed hereunder is or must be rescinded or returned by the Lender for any reason whatsoever (including, without limitation, the

insolvency, bankruptcy or reorganization of the Borrower or Guarantor) the evidence of such indebtedness shall be deemed to have continued in existence for the purposes of this Guaranty, and to the extent that such payment is or must be rescinded or returned, this Guaranty shall continue in force or be reinstated, as the case may be, as though such application by the Lender had not been made.

7. Miscellaneous.

(a) This Guaranty shall be deemed an instrument made under and shall be construed in accordance with and governed by the laws of the State of West Virginia for all purposes.

(b) This Guaranty shall be binding upon the undersigned, and upon the personal representatives, heirs, distributees, successors and assigns of the undersigned, and all references herein to the Borrower and to the Guarantor, respectively, shall be deemed to include any of their successors, whether immediate or remote, and shall inure to the benefit of the Lender's successors or assigns.

(c) No modification, amendment or waiver of any provision of this Guaranty nor consent to any departure by Guarantor therefrom, will in any event be effective unless the same is in writing and signed by the Lender, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on Guarantor in any case will entitle Guarantor to any other or further notice or demand in the same, similar or other circumstances.

(d) This Guaranty (including the documents and instruments referred to herein) constitutes the entire agreement and supersedes all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

(e) Whenever used herein, the singular number will include the plural, the plural the singular and the use of the masculine, feminine or neuter gender will include all genders.

(f) Wherever possible, each provision of this Guaranty shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Guaranty shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guaranty.

(g) All notices and other communications provided for hereunder shall be in writing and sent by United States certified or registered mail, return receipt requested, or by telegraph, telecopier or private delivery service, addressed as follows:

If to the Lender:

West Virginia Water Development Authority
180 Association Drive
Charleston, West Virginia 25311-1571

If to the Guarantor:

John H. Wellford
1615 Ridgeview Rd.
Charleston, West Virginia 25314

All notices shall, when mailed as aforesaid, be effective on the date indicated on the return receipt, and all notices given by other means shall be effective when received.

8. Consent to Jurisdiction. Guarantor hereby irrevocably (a) agrees that any suit, action or other legal proceeding arising out of or relating to this Guaranty may be brought in any federal or state court located or sitting in Kanawha County, West Virginia and consents to the jurisdiction of such court in any such suit, action or proceeding and (b) waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any such court and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. Guarantor hereby irrevocably consents to the service of any and all process in any such suit, action or proceeding by mailing of copies of such process to Guarantor at its address provided under or pursuant hereto. Guarantor agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. All mailings hereunder shall be by certified or registered mail, return receipt requested. Nothing herein shall affect the right of the Lender to serve legal process in any other manner permitted by law or affect the right of the Lender to bring any suit, action or proceeding against Guarantor or its property in the courts of any other jurisdiction.

9. No Jury Trial. GUARANTOR IRREVOCABLY WAIVES ANY AND ALL RIGHTS GUARANTOR MAY HAVE TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM OF ANY NATURE RELATING TO THIS GUARANTY, ANY DOCUMENTS EXECUTED IN CONNECTION WITH THIS GUARANTY, OR ANY

TRANSACTION CONTEMPLATED IN ANY OF SUCH DOCUMENTS. GUARANTOR ACKNOWLEDGES THAT THE FOREGOING WAIVER IS KNOWING AND VOLUNTARY.

Guarantor acknowledges that it has read and understood all the provisions of this Guaranty, including the waiver of jury trial, and has been advised by counsel as necessary or appropriate.

WITNESS the due execution hereof with the intent of being legally bound this

5th day of August, 1999.



JOHN H. WELLFORD

CC144919.1

Exhibit D



WEST VIRGINIA
Water Development Authority
Celebrating 44 Years of Service 1974 - 2018

October 22, 2018

Regional Development Authority of Charleston-Kanawha County,
W.Va. Metropolitan Region
P.O. Box 3627
Charleston, West Virginia 25336-3627
Attention: Executive Director

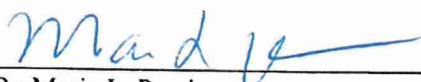
Re: Loan Agreement ("Loan Agreement") by and between West Virginia Water Development Authority ("Authority"), acting by and on behalf of the West Virginia Infrastructure and Jobs Development Council, and the Regional Development Authority of Charleston-Kanawha County, WV Metropolitan Region ("RDA").

Gentlemen,

This letter is to advise you that pursuant to the Promissory Note in the original principal amount of \$3,000,000, dated August 5, 1999, executed by the RDA and payable to the order of the Authority ("Note") and the Loan Agreement, the Authority hereby gives notice of its election to accelerate the entire unpaid principal balance of the Note together with all the accrued interest thereon in the amount of \$1,998,087.95, including \$1,457,728.05 of principal and \$540,359.90 of interest as of October 16, 2018. Interest is accruing at the rate of \$189.70 per day. This amount, plus attorneys' fees and other collection expenses, is due and payable immediately.

Very truly yours,

West Virginia Water Development Authority


By Marie L. Prezioso

Its: Executive Director

Regional Development Authority of Charleston-Kanawha County,
W.Va. Metropolitan Region
October 22, 2018
Page 2

cc: West Virginia Infrastructure and Jobs Development Council
1009 Bullitt Street
Charleston, WV 25301
Attn: Executive Secretary

Corotoman, Inc.
1 Wellford Way
Charleston, WV 25311
Attn: John Wellford

John Wellford
1 Wellford Way
Charleston, WV 25311

George Patterson, Esq. (via e-mail – gpatterson@bowlesrice.com)

John Leaberry, Esq. (via e-mail – leaberry01@yahoo.com)

First Community Bank (via e-mail – wstafford@brewstermorhous.com)
c/o William P. Stafford, II, Esq.



November 16, 2018

Regional Development Authority of Charleston-Kanawha County,
W.Va. Metropolitan Region
P.O. Box 3627
Charleston, West Virginia 25336-3627
Attention: Executive Director

Re: Loan Agreement ("Loan Agreement") by and between West Virginia Water Development Authority ("Authority"), acting by and on behalf of the West Virginia Infrastructure and Jobs Development Council, and the Regional Development Authority of Charleston-Kanawha County, WV Metropolitan Region ("RDA").

Gentlemen,

This letter is to correct the accelerated balance of the Promissory Note in the original principal amount of \$3,000,000, dated August 5, 1999, executed by the RDA and payable to the order of the Authority ("Note") and the Loan Agreement as set forth in my letter of October 22, 2018. The loan balance has been recalculated by Brown, Edwards & Company, L.L.P. The Authority confirms the prior notice of its election to accelerate the entire unpaid principal balance of the Note together with all the accrued interest thereon. The balance owing under the Note, as of November 1, 2018, is \$2,069,379.06, consisting of principal in the amount of \$1,736,360.75 and interest in the amount of \$333,018.31. Interest is accruing at the rate of \$229.10 per day. This amount, plus attorneys' fees and other collection expenses, is due and payable immediately.

Very truly yours,

West Virginia Water Development Authority

By Marie L. Prezioso

Its: Executive Director

cc: West Virginia Infrastructure and Jobs Development Council
1009 Bullitt Street
Charleston, WV 25301
Attn: Executive Secretary

Corotoman, Inc.
1 Wellford Way
Charleston, WV 25311
Attn: John Wellford

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1 Wellford Way
Charleston, WV 25311

George Patterson, Esq. (via e-mail – gpatterson@bowlesrice.com)

John Leaberry, Esq. (via e-mail – leaberry01@yahoo.com)

First Community Bank (via e-mail – wstafford@brewstermorhous.com)
c/o William P. Stafford, II, Esq.